

IN THE MATTER OF
JOSEPH E. MECHANIK, D.P.M.

AGREED ORDER of

VOLUNTARY

LICENSE SURRENDER No. 1326

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Joseph E. Mechanik, DPM. By letter dated June 7, 2004 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Mechanik of its intent to investigate complaints, concerns or reports filed against him. Dr. Mechanik was duly notified of the allegations against him. Dr. Mechanik has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Mechanik does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Mechanik understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. Mechanik, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Mechanik agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the Findings of Fact and Conclusions of Law set out in this Order. The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. Mechanik is licensed as a podiatric physician in the State of Texas (License Number 1326) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the Rules of the Board.
2. Dr. Mechanik is the subject of Agreed Board Order 98-106; 01-100; 01-101; 01-121; 03-083 approved and entered on January 13, 2004 through 2008.
3. Complaints were filed against Dr. Mechanik, and he was provided with notice of the complaints and with an opportunity to respond to the complaints and to show compliance with the law.
4. Dr. Mechanik, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Podiatric Medical Practice Act of Texas, the Board Rules and Board Orders.

CONCLUSIONS OF LAW

1. Dr. Mechanik is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et. seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et. seq..
2. Texas Occupations Code, §202.253(a)(5) provides that, “the board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.”
3. Texas Occupations Code, §202.501(a) provides that, “the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the board.”
4. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
5. 22 Texas Administrative Code, §376.1(a)(1) provides that, “any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine.”
6. The Findings Of Fact numbers 1 through 4 imply that Dr. Mechanik violated: *Texas Occupations Code, §202.253(a)(5)* in that he: directly or indirectly violated or attempted to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.
22 Texas Administrative Code §375.14 provides: “It shall be the responsibility of each licensee to ensure that any change of address or phone number(s) for each licensees location(s) are reported in writing, via e-mail, facsimile or mail to the board no later than 10 business days after the change is made. Failure to give written notification to the board of these changes within the required 10 business days shall result in an automatic administrative penalty of \$10, for each business day that the information is not reported to the board. The maximum penalty shall not exceed \$300.”

VOLUNTARY ORDER

With regard to Dr. Mechanik practicing podiatric medicine in the State of Texas:

1. Dr. Mechanik’s license to practice Podiatric Medicine is hereby voluntarily surrendered.
2. Dr. Mechanik shall return to the Board any certificate or other document evidencing licensure, expired or current. Failure to return such documentation may result in the Board seeking injunctive relief against Dr. Mechanik to prevent him from practicing podiatric medicine as it is defined in *Tex. Occup. Code Ann., §202.001 et seq.*
3. Dr. Mechanik’s podiatric practice is to remain closed for the purposes of receiving, diagnosing, treating, or consulting with patients, and Dr. Mechanik

may not participate for income in any professional activity that is directly related to the diagnosis or treatment of a patient. Dr. Mechanik may refer his patients to another practitioner for treatment or consultation during the time that Dr. Mechanik is not licensed, but Dr. Mechanik shall not derive any income from such referrals.

4. Dr. Mechanik may keep his office open for the purposes of arranging referrals, handling mail, processing accounts, billing, and insurance matters, and other similar matters if not directly related to the diagnosis and treatment of patients. Dr. Mechanik shall not represent himself to be a licensed podiatrist and shall not offer and shall not accept to consult with, diagnose or treat a patient.
5. If Dr. Mechanik shares office space with a podiatrist, the other podiatrist shall be allowed to continue his/her practice normally, but Dr. Mechanik shall not consult regarding the diagnosis or treatment of patients and shall not share income with the other practitioner, including any income derived in any way from the diagnosis or treatment of patients.
6. Dr. Mechanik shall permit a Board representative or staff member to periodically enter his place of business and/ or the facility at which she previously maintained an office, announced or unannounced, during the hours of 8:00 a.m. to 5:00 p.m. on any weekday that is not a federal holiday to ensure compliance with this Order.
7. The terms of this **Agreed Order**, if accepted by the Board, become effective upon approval of the Board.
8. If Dr. Mechanik fully complies with the terms of the **Agreed Order**, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.

GENERAL PROVISIONS

1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This **Agreed Order** is entered into pursuant to and shall be construed to be in accordance with the laws of the State of Texas including

Tex. Occup. Code Ann., §202.001 et. seq., the Podiatric Medical Practice Act. and the Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act.

4. Acknowledgment of Entire Agreement. Dr. Mechanik acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Mechanik has executed this instrument freely and of his own accord.

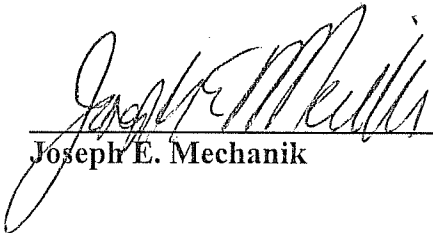
5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Joseph E. Mechanik, DPM
1469 Holly Street
Denver, CO 80220-2621

Texas State Board of Podiatric Medical Examiners
P.O. Box 12216
Austin, TX 78711-2216

6. Upon approval of this Agreed Order by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

I, JOSEPH E. MECHANIK, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.



Joseph E. Mechanik



Date

IN THE STATE OF COLORADO

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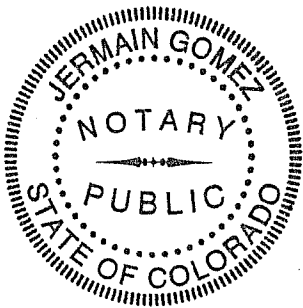
COUNTY OF

Denver

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BEFORE ME, on this day personally appeared Joseph E. Mechanik known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

SIGNED on this the 21 day of July, 2004.



Jermain R. Gomez

(Printed Name of Notary Public)

[Signature] 07-21-2004
Notary Public, in and for the State of Colorado

APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 9TH day of AUGUST, 2004, after a Board vote. In enforcing this Voluntary License Surrender, the Board effectively Revokes license Number 1326.

[Signature]
Bradford W. Glass, D.P.M.
Board President

[Signature]
Janie Alonzo
Acting-Executive Director